
DEFINITION OF COPYRIGHT

Copyright is the exclusive right that protects an author, artist, composer or programmer from having his or her work published, recorded, exhibited, translated or reproduced by way of copies and other versions, except by permission. The purpose of copyright is to encourage the development of new and original works and to stimulate their wide distribution by assuring that their creators will be fairly compensated for their contributions to society.

Current copyright law is embodied in Title 17 of the United States Code. Works or authorship include, but are not limited to, the following categories; computer programs; dramatic works, including any accompanying music; literary works; motion pictures and other audiovisual works; musical works, including any accompanying words; pantomimes and choreographic works; pictorial, graphic, and sculptured works; and sound recordings.

The Digital Millennium Copyright Act signed into law in October of 1998, updated portions of existing copyright law to specifically address newer technologies and multimedia applications. Those interested in further explanations of copyright should consult the bibliography below.

ONLINE RESOURCES

U.S. Copyright Law site
www.loc.gov/copyright/
The Copyright Website
www.benedict.com
The Fair of Copyright Works site
www.cetus.org/fairindex.html

PRINT RESOURCES

Copyright Plain and Simple
(Besebjak)
Guidelines for Educational Use of Copyrighted Materials
(Hoon)
The Nature of Copyright
(Patterson and Lindberg)

DEFINITION OF FAIR USE

According to PL94-553 Section 106, only the owner of copyright "has the exclusive right to do and authorize" duplication of any copyrighted material (i.e., print, music, video, etc.). In *Section 107: Limitations on Exclusive Rights: Fair Use* states:

"Notwithstanding the provisions of section 106, the fair use of copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified that section, for purposes such as criticism, comment news reporting, teaching, scholarship or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include:

- (1) the purpose and character of the use;
- (2) the nature of the copyrighted work;
- (3) the amount and substantiality of the portion used in relation of the copyrighted work as a whole: and
- (4) the effect of the use upon the potential market for or value of the copyrighted work."

In establishing these guidelines, it is not intended to define all possible practices that are fair use standards but to represent the minimum permissible standards of educational fair use under section 107 of Title 17 United States Code. *It is always advisable that written permission be obtained from the owners of the copyright before duplicating any copyrighted material.*

Copying "parts of" or "an entire work" for use in a classroom CANNOT be done simply because the purpose is educational. The Fair Use statute is used in determining the legality of copying when the instance of copying is not addressed in the other Sections of the Copyright Act. The updated Copyright Act of 1998 did not change the basic concept of fair use.

COPYING PRINT MATERIAL FOR CLASSROOM USE

PERMITTED

1. Teacher's may make single copies for use in scholarly research, in teaching, or in preparation for teaching a class of the following:
 - Chapter of a book.
 - Article from a newspaper or periodical.
 - Short essay, short story, short poem whether or not from a collected work.
 - Chart, graph, diagram, drawing, carbon, or picture from a book, periodical or newspaper.
2. Multiple copies may be made for use in the classroom:
 - Of an article, story or essay if it is less than 2500 words.
 - Of an excerpt of an article, story or essay if it is no more than 1000 words or no more than 10% of the whole, whichever is less.
 - Educators should be aware that copying books and periodicals may be done at the instance and inspiration of the individual teacher only when the decision to use the material for maximum teaching effectiveness is so close in time that it would be unreasonable to expect a timely reply to a request for permission.
 - Of a complete poem if it is less than 250 words and printed on no more than two pages.
 - Of an excerpt from a longer poem if it is less than 250 words.
 - Of one chart, graph, diagram, cartoon or picture per book or periodical.
 - Of special works combining prose, poetry, and illustrations, but limited to no more than 10% of the total.
 - All the preceding copying must bear the copyright credit notice.

PROHIBITED

1. Copies of consumable works,(i.e., workbooks and standardized tests) may not be made.
2. Copies may not be made for classroom use if it has already been copied for another classroom in the same institution.
3. Multiple copies may not be made from the same collective work or periodical issue more than three times a term.
4. Multiple copies of a short poem, article, story, or essay from the same author may not be made more than once in a class term.
5. Copies or works to take the place of or create an anthology, compilation or collective works may not be made.
6. Copying may not be done for the purpose of substituting for the purchase of books, publisher's reprints, or periodicals.
7. The same item may not be copied by the same teacher from term to term.
8. Copying may not be ordered by a higher authority.

COPYING MUSIC

PERMITTED

1. Emergency copies to replace purchased copies which for any reason are not available for an imminent performance provided purchase replacement copies shall be substituted in due course.
2. (a) For academic purposes other than performance, multiple copies of excerpts of works may be made, provided that the excerpts do not compromise a part of the whole which would constitute a part of a performance unit such as a section, movement or aria, but in no case more than 10% of the whole work. The number of copies shall not exceed one copy per pupil.

(b) For academic purposes other than performance, a single copy of an entire performable unit (section, movement, aria) that is confirmed to be out-of-print or unavailable except in a larger work, may be made solely for the purpose of research or in preparation to teach a class.
3. Printed copies which have been purchased may be edited or simplified provided that the fundamental character of the work is not distorted, or the lyrics, if any, altered, or lyrics added if none exists.
4. A single copy of recordings of performances by students may be made for evaluation or rehearsal purposes and may be retained by the educational institution or teacher.
5. A single copy of a sound recording (such as tape, disc or cassette) of copyrighted music may be made from sound recordings owned by an educational institution or an individual teacher for the purpose of constructing aural exercise or examinations and may be retained by the educational institution or individual teacher. (This pertains only to the copyright of the music itself and not to any copyright which may exist in the sound recording).

PROHIBITED

1. Copying to create or replace or substitute for anthologies, compilations or collective works.
2. Copying of or from works to be “consumable” in the course of study or of teaching such as workbooks, exercises, standardized tests and answer sheets and like material.
3. Copying for the purpose of performance, except as in (1) on previous page.
4. Copying for the purpose of substituting for the purchase of music, except as in (1) and (2) on previous page.
5. Copying without inclusion of the copyright notice which appears on the printed copy.

COPYING AUDIO VISUAL WORKS

PERMITTED

1. Creating a slide or overhead transparency series from multiple sources as long as creation does not exceed 10 percent of the photographs in one source (book, magazine, filmstrip, etc.) unless the source forbids photographic reproduction.
2. Creating a single overhead transparency from a single page of a "consumable" workbook.
3. Reproducing selected slides from a series if reproduction does not exceed 10 percent of total nor excerpts "the essence."
4. Stories or literary excerpts may be narrated on tape and duplicated, as long as similar material is not available for sale.

PROHIBITED

1. Duplication of tapes unless reproduction rights were given by the copyright holder.
2. Reproduction of musical works to another format (e.g., compact disc to cassette).
3. Reproduction of commercial "ditto masters" individually or in sets (including multimedia kits).
4. Reproduction of any audio visual work (film, filmstrip, videotape) in its entirety.
5. Conversion of one media format to another (e.g., film to videotape) unless permission is secured.

COPYING COMPUTER SOFTWARE

PERMITTED

1. Making a copy of a program provided:
 - That the copy is created at the expressed written consent of the copyright holder as an essential step in the utilization of the computer program in conjunction with a machine and it is used in no other manner.
 - That the copy is for archival purposes only and that all archival copies are destroyed in the event that possession of the computer program should cease.
 - It is recommended that a record of the archival copy be kept in a log which includes but is not limited to title, vendor, date of duplication, purchase order number, and computer format. The log be maintained for a period of three years.
2. When printed authorization is on file.

PROHIBITED

1. Creation of any new copies of copyrighted programs for any purpose other than those listed above.
2. Creation of any copies of program which have been modified or adapted to meet local needs without permission of the copyright holder.
3. Multiple-loading or booting from one disk into multiple machines at the same time.
4. Use of a program at multiple stations on a network, unless authorized by a network license.
5. Making multiple copies of the printed documents that accompany copyrighted software.

OFF-AIR VIDEO RECORDING

Copyright law specifically prohibits unauthorized copying of works such as television programs and video presentations.

PERMITTED

1. Commercially broadcast programs, except where specific restrictions have been issued, may be recorded off-air simultaneously with transmission and retained for 45 calendar days after date of recording provided its use is an integral part of the school's systematic instructional plan.
2. Off air recordings (in 1 above) may be used by a teacher for relevant educational classroom activities and necessary reinforcement during the first ten (10) consecutive school days after recording, provided its use is an integral part of the school's systematic instructional plan.
3. After the first 10 school days, recordings may be used up to the end of the 45-day retention period for teacher evaluation purposes only (e.g. to determine if the program should be purchased by the department).
4. Such recordings may be made only at the request of and used by individual teachers.
5. Such recordings need not be used in their entirety but may not be altered or edited. The recordings, however, must include the copyright notice on the program as recorded.
6. Upon conclusion of the retention period, all off-air recordings must be erased or destroyed immediately.

PROHIBITED

1. Off-air recording in anticipation of teacher requests.
2. Using the recording for instruction after the 10-day use period.
3. Holding the recording for weeks or indefinitely because:
 - units requiring the program concepts are not taught within the ten-day use period.
 - an interruption or technical problem delayed its use.
 - another teacher wishes to use it, or any other assumed "legitimate" educational reason.
4. Programs recorded off-air may not be used for entertainment or "reward" during the school day or evening. This constitutes a public showing even if special fees are not required.
5. Recording of paid television (i.e., HBO) and other cable programs.
6. Use of Mansfield School District-owned equipment for making or playing back copies that are not legally acquired.

LIBRARY AND ARCHIVAL RIGHTS FOR REPRODUCTION

Library copying that may exceed fair use because of individual user requests or requests from other libraries or archival libraries is authorized by Public Law 94-553, Section 108, provided that:

1. Reproduction or distribution is not done for direct or indirect commercial advantage.
2. Library collections are open to the public or available to outside researchers.
3. Copies must include notice of copyright.

These rights are extended to isolated and unrelated reproduction of a single copy of the same material on separate occasion, but do not extend to systematic reproduction or distribution of single or multiple copies.

PERMITTED

1. Reproduction for preservation, security or deposit in another library of UNPUBLISHED WORK is permitted if:
 - Reproduction is made by microfilm or electrostatic process, not in "machine readable" form for storage in any information system.
 - Reproduction deposited in another library may not be reproduced.
2. Published works in a libraries' or archives' collection that is damaged, deteriorating, lost, or stolen may be reproduced only after a reasonable effort has determined that an unused placement is not obtainable at a fair price.
3. Out-of-print work may be reproduced at a library patron's request from another library only after a reasonable effort has determined that an unused replacement is not obtainable at a fair price provided that:

- The copy becomes the property of the user and that the library has had no notice that the copy is being used for anything but research, scholarship, or private study.

- Library must have Copyright Notice displayed where orders are accepted and on interlibrary loan forms.

4. ONE article or other contribution to a periodical, or a copy of a small part of any other part of any other copyrighted work may be made provided:

- The copy becomes the property of the user and that the library has had no notice that the copy is being used for anything but research, scholarship or private study.

- Library must have Copyright Notice displayed where orders are accepted and on the interlibrary loan form.

5. For interlibrary loan, a library may make up to six copies per year of an article or articles from a given periodical that has been published within the last five years. The requesting library must supply with each request a statement that is made in conformity with the Guidelines for the Proviso of Subsection 108 (9) (2) and must maintain records of all requests.

PROHIBITED

1. Systematic reproduction or distribution of single or multiple copies.
2. No request for interlibrary loan may be fulfilled unless request is accompanied by assurance that the request is made in conformity with guidelines.

COPYING FOR MULTIMEDIA PRODUCTIONS

New guidelines adopted in October 1998 require that all multimedia presentations using copyrighted materials adhere to a set of recommendations that include opening screens that notify of copyrighted content and credit pages listing complete copyright information. Often times the use guidelines established for multimedia materials follow those used for print materials.

PERMITTED

1. Teachers can copy portions of audio recordings for academic purposes other than performances and use them with students. The portion copied should be limited to 10% or no more than 30 seconds.
2. Curriculum-based projects may include materials from cited CDs, books, the Internet, and other sources. These may be shared with family members.
3. Material from the Internet may be included in classroom projects.
4. Classrooms using distance learning technologies to transmit information do not constitute a public distribution or performance.
5. Students may use 10% or 3 minutes of moving media (i.e., video), whichever is less, in a presentation

PROHIBITED

1. Multimedia presentations that contain copyrighted materials may not be shared outside of the school community without permission from the copyright holder.
2. Projects that contain copyrighted materials may not be posted to the Internet.
3. Asking the copyright holder of one media format to grant permission for another media format.

APPENDIX A

Procedures for obtaining permission to use copyrighted materials.

It is the responsibility of the user to:

1. Locate a source containing the desired material.
2. Determine by looking in the source if the publisher owns the copyright or attributes it to someone else.
3. Write to the owner of the copyright for written permission to use the material. This letter should include:

- Request for written permission to use the material
- Specific information related to the material to be used
- Nature of the publication or use in which the material will be included
- Number of editions of publication to be published
- Number of copies to be printed
- Approximate length of time the publication will be in use
- People to whom publication will be distributed
- Price of publication or intention to distribute gratis
- Request for a written acknowledgment from the publisher
- Date by which information is needed.

Table of Contents

Definition of Copyright	page 1
Definition of Fair Use	page 2
Copying Print Material for Classroom Use	page 3
Copying Music	page 5
Copying Audio Visual Works	page 7
Copying Computer Software	page 8
Off-Air Video Recording	page 9
Library and Archival Rights for Reproduction	page 11
Copying for Multimedia Productions	page 13
Appendix A	
Procedures for obtaining copyright permission	page 14
